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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

LUZ ZENDEJAS,

Plaintiff,

vs.

G.A.B. INC.; and DOES 1 to 10,

Defendants.

Case No.:

COMPLAINT FOR INJUNCTIVE
RELIEF AND DAMAGES FOR
VIOLATION OF:

1. AMERICANS WITH DISABILITIES
ACT, 42 U.S.C. §12131 et seq.;
2. CALIFORNIA'S UNRUH CIVIL
RIGHTS ACT, CAL CIV. CODE §§ 51 -
52 et seq.;
3. CALIFORNIA'S DISABLED
PERSONS ACT, CAL CIV. CODE §54 et
seq.
4. CALIFORNIA'S UNFAIR
COMPETITION ACT, CAL BUS & PROF
CODE § 17200, et seq.
5. NEGLIGENCE

Plaintiff LUZ ZENDEJAS ("Plaintiff") complains of Defendants G.A.B. INC.; and
DOES 1 to 10 ("Defendants") and alleges as follows:

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JURISDICTION AND VENUE

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2 1. The Court has jurisdiction of this action pursuant to 28 USC §1331 for
3 violation of the Americans with Disabilities Act of 1990, (42 USC §12101, *et seq.*)

4 2. Pursuant to pendant jurisdiction, attendant and related causes of action,
5 arising from the same nucleus of operating facts, are also brought under California law,
6 including, but not limited to, violations of California Civil Code §§51, 51.5, 52(a), 52.1,
7 54, 54., 54.3 and 55.

8 3. Venue is proper in this court pursuant to 28 USC §1391(b). The real
9 property which is the subject of this action is located in this district, Los Angeles County,
10 California, and Plaintiff's causes of actions arose in this district.

PARTIES

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12 4. Plaintiff is a California resident with a physical disability with substantial
13 limitations in her ability to walk. Plaintiff is diagnosed with multiple sclerosis which
14 resulted in nerve damage and requires the use of a wheelchair at all times when traveling
15 in public.

16 5. Defendants are, or were at the time of the incident, the real property owners,
17 business operators, lessors and/or lessees of the real property for a brewery ("Business")
18 located at or about 3083 Lima St., Burbank, California.

19 6. The true names and capacities, whether individual, corporate, associate or
20 otherwise of Defendant DOES 1 through 10, and each of them, are unknown to Plaintiff,
21 who therefore sues said Defendants by such fictitious names. Plaintiff will ask leave of
22 Court to amend this Complaint when the true names and capacities have been
23 ascertained. Plaintiff is informed and believes and, based thereon, alleges that each such
24 fictitiously named Defendants are responsible in some manner, and therefore, liable to
25 Plaintiff for the acts herein alleged.

26 7. Plaintiff is informed and believes, and thereon alleges that, at all relevant
27 times, each of the Defendants was the agent, employee, or alter-ego of each of the other
28 Defendants, and/or was acting in concert with each of the other Defendants, and in doing

1 the things alleged herein was acting with the knowledge and consent of the other
2 Defendants and within the course and scope of such agency or employment relationship.

3 8. Whenever and wherever reference is made in this Complaint to any act or
4 failure to act by a defendant or Defendants, such allegations and references shall also be
5 deemed to mean the acts and failures to act of each Defendant acting individually, jointly
6 and severally.

7 **FACTUAL ALLEGATIONS**

8 9. In or about October of 2022, Plaintiff went to the Business. The Business is
9 a brewery business establishment, which is open to the public, and is a place of public
10 accommodation and affects commerce through its operation. Defendants provide parking
11 spaces for customers.

12 10. While attempting to enter the Business during each visit, Plaintiff personally
13 encountered a number of barriers that interfered with her ability to use and enjoy the
14 goods, services, privileges, and accommodations offered at the Business. To the extent
15 of Plaintiff's personal knowledge, the barriers at the Business included, but were not
16 limited to, the following:

17 a. Defendants failed to comply with the federal and state standards for
18 the parking space designated for persons with disabilities. Defendants
19 failed to provide accessible parking space designated for persons with
20 disabilities as the one provided was blocked by outdoor dining
21 equipment.

22 b. Defendants failed to maintain the parking space designated for
23 persons with disabilities to comply with the federal and state
24 standards. Defendants failed to clear the van accessible space
25 designated for the persons with disabilities.

26 11. These barriers and conditions denied Plaintiff the full and equal access to the
27 Business. Plaintiff wishes to patronize the Business again. However, Plaintiff is deterred
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1 from visiting the Business because her knowledge of these violations prevents her from
2 returning until the barriers are removed.

3 12. Based on the violations, Plaintiff alleges, on information and belief, that
4 there are additional barriers to accessibility at the Business after further site inspection.
5 Plaintiff seeks to have all barriers related to her disability remedied. *See Doran v. 7-*
6 *Eleven, Inc.* 524 F.3d 1034 (9th Cir. 2008).

7 13. In addition, Plaintiff alleges, on information and belief, that Defendants
8 knew that particular barriers render the Business inaccessible, violate state and federal
9 law, and interfere with access for the physically disabled.

10 14. At all relevant times, Defendants had and still have control and dominion
11 over the conditions at this location and had and still have the financial resources to
12 remove these barriers without much difficulty or expenses to make the Business
13 accessible to the physically disabled in compliance with ADDAG and Title 24
14 regulations. Defendants have not removed such barriers and have not modified the
15 Business to conform to accessibility regulations.

16 **FIRST CAUSE OF ACTION**

17 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

18 15. Plaintiff incorporates by reference each of the allegations in all prior
19 paragraphs in this complaint.

20 16. Under the Americans with Disabilities Act of 1990 (“ADA”), no individual
21 shall be discriminated against on the basis of disability in the full and equal enjoyment of
22 the goods, services, facilities, privileges, advantages, or accommodations of any place of
23 public accommodation by any person who owns, leases, or leases to, or operates a place
24 of public accommodation. *See* 42 U.S.C. § 12182(a).

25 17. Discrimination, *inter alia*, includes:

- 26 a. A failure to make reasonable modification in policies, practices, or
27 procedures, when such modifications are necessary to afford such
28 goods, services, facilities, privileges, advantages, or accommodations

1 to individuals with disabilities, unless the entity can demonstrate that
2 making such modifications would fundamentally alter the nature of
3 such goods, services, facilities, privileges, advantages, or
4 accommodations. 42 U.S.C. § 12182(b)(2)(A)(ii).

5 b. A failure to take such steps as may be necessary to ensure that no
6 individual with a disability is excluded, denied services, segregated or
7 otherwise treated differently than other individuals because of the
8 absence of auxiliary aids and services, unless the entity can
9 demonstrate that taking such steps would fundamentally alter the
10 nature of the good, service, facility, privilege, advantage, or
11 accommodation being offered or would result in an undue burden. 42
12 U.S.C. § 12182(b)(2)(A)(iii).

13 c. A failure to remove architectural barriers, and communication barriers
14 that are structural in nature, in existing facilities, and transportation
15 barriers in existing vehicles and rail passenger cars used by an
16 establishment for transporting individuals (not including barriers that
17 can only be removed through the retrofitting of vehicles or rail
18 passenger cars by the installation of a hydraulic or other lift), where
19 such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv).

20 d. A failure to make alterations in such a manner that, to the maximum
21 extent feasible, the altered portions of the facility are readily
22 accessible to and usable by individuals with disabilities, including
23 individuals who use wheelchairs or to ensure that, to the maximum
24 extent feasible, the path of travel to the altered area and the
25 bathrooms, telephones, and drinking fountains serving the altered
26 area, are readily accessible to and usable by individuals with
27 disabilities where such alterations to the path or travel or the
28 bathrooms, telephones, and drinking fountains serving the altered

1 area are not disproportionate to the overall alterations in terms of cost
2 and scope. 42 U.S.C. § 12183(a)(2).

3 18. Where parking spaces are provided, accessible parking spaces shall be
4 provided. 1991 ADA Standards § 4.1.2(5); 2010 ADA Standards § 208. One in every
5 eight accessible spaces, but not less than one, shall be served by an access aisle 96 in
6 (2440 mm) wide minimum and shall be designated “van accessible.” 1991 ADA
7 Standards § 4.1.2(5)(b). For every six or fraction of six parking spaces, at least one shall
8 be van parking space. 2010 ADA Standards § 208.2.4.

9 19. Under the ADA, the method and color of marking are to be addressed by
10 State or local laws or regulations. *See* 36 C.F.R., Part 1191. Under the California
11 Building Code (“CBC”), the parking space identification signs shall include the
12 International Symbol of Accessibility. Parking identification signs shall be reflectorized
13 with a minimum area of 70 square inches. Additional language or an additional sign
14 below the International Symbol of Accessibility shall state “Minimum Fine \$250.” A
15 parking space identification sign shall be permanently posted immediately adjacent and
16 visible from each parking space, shall be located with its centerline a maximum of 12
17 inches from the centerline of the parking space and may be posted on a wall at the
18 interior end of the parking space. *See* CBC § 11B-502.6, *et seq.*

19 20. Moreover, an additional sign shall be posted either in a conspicuous place at
20 each entrance to an off-street parking facility or immediately adjacent to on-site
21 accessible parking and visible from each parking space. The additional sign shall not be
22 less than 17 inches wide by 22 inches high. The additional sign shall clearly state in
23 letters with a minimum height of 1 inch the following: “Unauthorized vehicles parked in
24 designated accessible spaces not displaying distinguishing placards or special license
25 plates issued for persons with disabilities will be towed always at the owner’s expense...”
26 *See* CBC § 11B-502.8, *et seq.*

27 21. Here, Defendants failed to provide accessible parking space designated for
28 persons with disabilities, as the one provided was blocked by outdoor dining equipment.

1 and equal accommodations, advantages, facilities, privileges, or services in all business
2 establishments of every kind whatsoever.”

3 28. California Civil Code § 52 states, “Whoever denies, aids or incites a denial,
4 or make any discrimination or distinction contrary to Section 51, 51.5, or 51.6, is liable
5 for each and every offense for the actual damages, and any amount that may be
6 determined by a jury, or a court sitting without a jury, up to a maximum of three times the
7 amount of actual damage but in no case less than four thousand dollars (\$4,000) and any
8 attorney’s fees that may be determined by the court in addition thereto, suffered by any
9 person denied the rights provided in Section 51, 51.5, or 51.6.

10 29. California Civil Code § 51(f) specifies, “a violation of the right of any
11 individual under federal Americans with Disabilities Act of 1990 (Public Law 101-336)
12 shall also constitute a violation of this section.”

13 30. The actions and omissions of Defendants alleged herein constitute a denial
14 of full and equal accommodation, advantages, facilities, privileges, or services by
15 physically disabled persons within the meaning of California Civil Code §§ 51 and 52.
16 Defendants have discriminated against Plaintiff in violation of California Civil Code §§
17 51 and 52.

18 31. The violations of the Unruh Civil Rights Act caused Plaintiff to experience
19 difficulty, discomfort, or embarrassment. The Defendants are also liable for statutory
20 damages as specified in California Civil Code §55.56(a)-(c).

21 **THIRD CAUSE OF ACTION**

22 **VIOLATION OF CALIFORNIA DISABLED PERSONS ACT**

23 32. Plaintiff incorporates by reference each of the allegations in all prior
24 paragraphs in this complaint.

25 33. California Civil Code § 54.1(a) states, “Individuals with disabilities shall be
26 entitled to full and equal access, as other members of the general public, to
27 accommodations, advantages, facilities, medical facilities, including hospitals, clinics,
28 and physicians’ offices, and privileges of all common carriers, airplanes, motor vehicles,

1 railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes
2 of transportation (whether private, public, franchised, licensed, contracted, or otherwise
3 provided), telephone facilities, adoption agencies, private schools, hotels, loading places,
4 places of public accommodations, amusement, or resort, and other places in which the
5 general public is invited, subject only to the conditions and limitations established by
6 law, or state or federal regulation, and applicable alike to all persons.

7 34. California Civil Code § 54.3(a) states, “Any person or persons, firm or
8 corporation who denies or interferes with admittance to or enjoyment of public facilities
9 as specified in Sections 54 and 54.1 or otherwise interferes with the rights of an
10 individual with a disability under Sections 54, 54.1 and 54.2 is liable for each offense for
11 the actual damages, and any amount as may be determined by a jury, or a court sitting
12 without a jury, up to a maximum of three times the amount of actual damages but in no
13 case less than one thousand dollars (\$1,000) and any attorney’s fees that may be
14 determined by the court in addition thereto, suffered by any person denied the rights
15 provided in Section 54, 54.1, and 54.2.

16 35. California Civil Code § 54(d) specifies, “a violation of the right of an
17 individual under Americans with Disabilities Act of 1990 (Public Law 101-336) also
18 constitute a violation of this section, and nothing in this section shall be construed to limit
19 the access of any person in violation of that act.

20 36. The actions and omissions of Defendants alleged herein constitute a denial
21 of full and equal accommodation, advantages, and facilities by physically disabled
22 persons within the meaning of California Civil Code § 54. Defendants have
23 discriminated against Plaintiff in violation of California Civil Code § 54.

24 37. The violations of the California Disabled Persons Act caused Plaintiff to
25 experience difficulty, discomfort, and embarrassment. The Defendants are also liable for
26 statutory damages as specified in California Civil Code §55.56(a)-(c).

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FOURTH CAUSE OF ACTION

UNFAIR COMPETITION ACT

38. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.

39. Defendants have engaged in unfair competition, unfair or fraudulent business practices, and unfair, deceptive, untrue or misleading advertising in violation of the Unfair Competition Act. Bus & Prof. Code §§ 17200 *et seq.*

40. Defendants engage in business practices and policies that create systemic barriers to full and equal access for people with disability in violation of state and federal law.

41. The actions and omissions of Defendants are unfair and injurious to Plaintiff, a consumer of the Business' goods and services. As a result of Defendants' unfair business practice and policies, Plaintiff suffered injury in fact. Plaintiff was not provided with goods and services provided to other consumers. Plaintiff seeks relief necessary to prevent Defendants' continued unfair business practices and policies and restitution of any month that Defendants acquired by means of such unfair competition, including profits unfairly obtained.

FIFTH CAUSE OF ACTION

NEGLIGENCE

42. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.

43. Defendants have a general duty and a duty under the ADA, Unruh Civil Rights Act and California Disabled Persons Act to provide safe and accessible facilities to the Plaintiff.

44. Defendants breached their duty of care by violating the provisions of ADA, Unruh Civil Rights Act and California Disabled Persons Act.

45. As a direct and proximate result of Defendants' negligent conduct, Plaintiff has suffered damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for relief and judgment against Defendants as follows:

1. For preliminary and permanent injunction directing Defendants to comply with the Americans with Disability Act and the Unruh Civil Rights Act;
2. Award of all appropriate damages, including but not limited to statutory damages, general damages and treble damages in amounts, according to proof;
3. Award of all reasonable restitution for Defendants' unfair competition practices;
4. Reasonable attorney's fees, litigation expenses, and costs of suit in this action;
5. Prejudgment interest pursuant to California Civil Code § 3291; and
6. Such other and further relief as the Court deems just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury on all issues so triable.

Dated: December 29, 2022

SO. CAL. EQUAL ACCESS GROUP

By: /s/ Jason J. Kim
Jason J. Kim, Esq.
Attorneys for Plaintiff